**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH**
**AT HYDERABAD**

(Special Original Jurisdiction)

TUESDAY, THE THIRTIETH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE B.PRAKASH RAO**

**WRIT PETITION NO : 17708 of 1996**

Between:

Laxmi Rajan, S/o Raj Mallaiah,
Occ: Retired Assistant General Manager of the
District Central Co-operative Bank, Nizamabad Dist.

..... PETITIONER

AND

The General Manager,
District Coop. Central Bank Ltd.,
Nizamabad

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, one in the nature of writ of Mandamus declaring the action of the respondent-Bank in not paying the Provident Fund at Rs.5,900/- on sanctioned leave of 120 days as illegal, arbitrary and unconstitutional under Art. 14, 16(1) and 300-A of the Constitution of India and consequently to direct the respondent Bank to pay the said provident Fund to the petitioner.

**Counsel for the Petitioner: MR.S.PANDARI**

**Counsel for the Respondent: SC FOR AP COOP BANK**

**The Court made the following ORDER:**

**ORDER:**

Heard the learned counsel appearing for the petitioner and also the learned counsel appearing for the respondent.

This petition is filed by the petitioner, *inter alia*, seeking a Writ of Mandamus declaring the action of the respondent-bank in not paying the Provident Fund at Rs.5,900/- on sanctioned leave of
120 days, as illegal and arbitrary.

The case of the petitioner is that he retired from service of the respondent-Bank in the capacity of Assistant General Manager on 31.10.1995. During the course of his service, he did not avail leave for 98 days up to 28th February, 1995 and
22 days accrued from 01.03.1995 to 31.10.1995 and therefore, he has 120 days towards un-availed leave in his credit at the date of his retirement. The respondent, vide proceedings dated 18.03.1996 sanctioned the said 120 days period for encashment of leave, but, he has not paid the Provident Fund contribution and other benefits for the said period. In this connection, the petitioner filed a representation to the respondent on 06.06.1996, but the respondent neither considered the representation nor passed any orders. Hence, the writ petition.

Learned counsel for the petitioner contended that in similar circumstances, the employees have been paid provident fund on un-availed and sanctioned leave. It is also stated that even in respect of a similarly placed employee of the District Cooperative Central Bank at Kakinada, such benefits had been paid. Therefore, denying the benefit in respect of the petitioner is arbitrary and illegal.

No counter affidavit has been filed on behalf of the respondent.

Having heard the learned counsel on either side and also on perusal of the material available on record, it is evident that the only grievance of the petitioner is that he is entitled for payment of provident fund amount in respect of the sanctioned leave for the aforesaid 120 days, since the respondent had permitted the petitioner for encashment of leave vide proceedings dated 18.03.1996. In view of the same, the action of the respondent in not considering the petitioner's case is totally unsustainable.

In the circumstances, the writ petition is allowed directing the respondent to pay all the benefits including the Provident Fund for the sanctioned period of 120 days. No costs.

_____

B.Prakash Rao, J

Date: 30.11.2004

va

To

1. The General Manager,

District Coop. Central Bank Ltd.,
Nizamabad

2. Two CD Copies

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Tuesday, the thirtieth day of November, Two Thousand and Four.